



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

JUL 16 2007



The Honorable Billy K. Cannaday
Superintendent of Public Instruction
Virginia Department of Education
P.O. Box 2120
Richmond, Virginia 23218

Dear Superintendent Cannaday:

I am writing in response to Virginia's request to amend its State accountability plan under Title I of the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *No Child Left Behind Act of 2001* (NCLB). Following our discussions with your staff, the approved changes are now included in an amended State accountability plan that Virginia submitted to the Department on June 12, 2007. I am pleased to fully approve Virginia's amended plan, which we will post on the Department's website. A summary of the amendments submitted for the 2006-07 school year is enclosed with this letter. As you know, any further requests to amend the Virginia accountability plan must be submitted to the Department for review and approval as required by section 1111(f)(2) of Title I.

Please also be aware that approval of Virginia's accountability plan for Title I, including the amendments approved above, does not indicate that the plan complies with Federal civil rights requirements, including Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of the *Rehabilitation Act of 1973*, Title II of the *Americans with Disabilities Act*, and requirements under the *Individuals with Disabilities Education Act*.

I am confident that Virginia will continue to hold schools and school districts accountable for the achievement of all students. I wish you well in your school improvement efforts. If you need any additional assistance in implementing the standards, assessment and accountability provisions of NCLB, please do not hesitate to contact Abigail Potts (abigail.potts@ed.gov) or David Harmon (david.harmon@ed.gov).

Sincerely,

Kerri L. Briggs, Ph.D.

Enclosure

cc: Governor Tim Kaine
Linda Wallinger
Shelley Loving-Ryder

Amendments to the Virginia Accountability Plan

The following is a summary of the State's amendment requests. Please refer to the Department's website (www.ed.gov/admins/lead/account/stateplans03/index.html) for the complete Virginia accountability plan.

Acceptable amendments

The following amendments are approved.

- **Inclusion of students with disabilities in adequate yearly progress (AYP) determinations (Element 5.3)**

Revision: Virginia will use the "proxy method" (option 1 in our guidance dated December 2005) to take advantage of the interim flexibility regarding calculating AYP for the students with disabilities subgroup (refer to: <http://www.ed.gov/policy/elsec/guid/secletter/070207.html>). Virginia will calculate a proxy to determine the percentage of students with disabilities that is equivalent to 2.0 percent of all students assessed. For this year only, this proxy will then be added to the percentage of students with disabilities who are proficient. For any school or district that did not make AYP solely due to its students with disabilities subgroup, Virginia will use this adjusted percentage proficient to re-examine if the school or district made AYP for the 2006–07 school year.

- **Inclusion of students with disabilities (Element 5.3)**

Revision: Virginia has permission to use a cap of 1.1 percent rather than the regulatory cap of 1.0 percent on the number of proficient and advanced scores from the Virginia Alternate Assessment Program (VAAP) that may be included in determining AYP for 2006–07. Because the Title I regulations regarding modified academic achievement standards prohibit State exceptions to the 1.0 percent cap beginning in the 2007–08 school year (<http://www.ed.gov/legislation/FedRegister/finrule/2007-2/040907a.html>), Virginia may no longer use the 1.1 percent cap beyond 2006–07.

- **Assessment of students with disabilities (Element 5.3)**

Revision: Virginia will no longer include the scores of students with disabilities who participate in the Virginia Substitute Evaluation Program (VSEP) in the participation or proficiency calculations for AYP as there are not sufficient numbers of students participating in this program to prepare the required technical documentation necessary to meet the NCLB assessment requirements.

- **Assessment of limited English proficient (LEP) students (Element 5.4)**

Revision: Virginia will expand the administration of the reading/language arts Virginia Grade Level Alternate (VGLA), typically used for some students with disabilities, to include some LEP students.

- **Assessment of LEP students (Element 5.4)**

Revision: Virginia will discontinue use of the Stanford English Language Proficiency (SELP) test as a substitute for the reading Standards of Learning assessment for LEP students at levels 1 and 2 of English language proficiency.

- **Assessments included in AYP determinations (Element 6.1)**

Revision: Virginia will no longer include the scores of students who participate in high school “substitute” tests in the participation or proficiency calculations for AYP, with the exception of advanced placement (AP) and international baccalaureate (IB) exams, as noted below.

- **Use of AP and IB exams as substitutes for the high school end-of-course assessments (Element 6.1)**

Revision: Virginia will be granted the flexibility, under section 9401 of ESEA, to count a student as proficient in reading/language arts when determining AYP if the student scores a two or higher on the AP English Literature and Composition or a three or higher on the IB English assessment in place of Virginia’s English: Reading Literature assessment. In addition, a student who scores a two or higher on the AP Calculus (AB or BC), or a three or higher on the IB Math Studies, IB Math Methods, or IB Mathematics in place of Virginia’s Algebra I, Geometry, or Algebra II assessments will be counted as proficient in mathematics when determining AYP. The Department recognizes that the AP and IB exams are of high quality and are tied to specific college-level course content. Virginia submitted sufficient evidence that the AP and IB exams meet or exceed the Virginia course content standards and the proficiency scores approved above demonstrate that the students taking these substitute assessments have met the corresponding achievement standards. This flexibility agreement will permit Virginia to use the AP and IB assessments in AYP calculations, thereby offering an assessment of college-level course content which may not in every case cover the full breadth of the Virginia high school content standards as required under 34 C.F.R. 200.3(a)(1)(i). This agreement is in effect for four years (the 2006–07 through 2009–10 school years) unless the reauthorization of the ESEA changes the requirements on which it is based. As required by section 9401(b)(3)(A) of the ESEA, within 30 days of the date of this letter, Virginia must provide all interested school districts with notice and a reasonable opportunity to comment, submit any comments to the Secretary, and provide notice and information to the public about its use of the AP and IB in the manner in which it customarily provides similar notice to the public. Virginia must also annually submit a report under section 9401(c)(1) of the ESEA to the Department at the end of each school year that describes its use of the AP and IB assessments.

- **Graduation rate (Element 7.1)**

Revision: For the 2006–07 and 2007–08 school years, Virginia will increase the graduation rate target to 61 percent of students receiving a standard or advanced diploma in the standard number of years. The interim target of 61 percent will be used for graduation rate through 2007–08 AYP calculations, after which the statewide individual student record system will provide a more accurate accounting of graduation rate in Virginia. Once longitudinal data are available, graduation rate targets for 2008–09 and beyond will be recalculated and used in AYP determinations.

- **Other academic indicator (Element 7.2)**

Revision: Virginia will expand the options for the other academic indicator at the elementary and middle school level. Districts can choose between attendance rate or the percentage of students proficient or above on the State science, writing, or history/social science assessments as the other academic indicator required in section 1111(b)(2)(C)(vi) of the ESEA. The State target for the other academic indicator for performance on science, writing, or history/social science assessments is set at 70 percent proficient or above.

Unacceptable amendments

The following amendments are not aligned with the statute and regulations and are therefore not approved.

- **Excluding LEP students from the accountability system for two years (Element 5.4)**

Virginia proposed to allow students new to the United States in the past two years to be exempted from the reading/language arts assessment. Under regulations released by the Department on September 13, 2006, a State may exempt recently arrived LEP students from one administration of the State's reading/language arts assessment so long as the student takes the English language proficiency test. Virginia's proposal to extend this flexibility to two administrations of the reading/language arts assessment is not allowed in the statute or regulations.

- **Use of the SELP Assessment for LEP students (Element 5.4)**

Virginia requested to continue using the SELP as a means to assess reading/language arts content for LEP students in the 2006-07 school year to allow the State additional time to research options to assess LEP students. However, based on the evidence provided to the Department for peer review, the SELP test does not meet the requirements of the ESEA. In letters dated March 22 and June 28, 2006, the Department notified Virginia of the areas in which the SELP, an English language proficiency assessment, does not meet the ESEA requirements. Specifically, the SELP assessment lacks comparability in content coverage, rigor, and technical quality to assessments offered to non-LEP students. Since Virginia's initial request to use the SELP as a means to assess reading/language arts content for some LEP students, the State has agreed to discontinue use of the SELP test as a substitute for the reading Standards of Learning assessment for LEP students at levels 1 and 2 of English language proficiency (see accepted amendments above regarding element 5.4).

- **Reordering public school choice and supplemental educational services (SES) (Element 1.6)**

The Department declines to approve Virginia's proposal to reverse the order public school choice and SES are offered in all schools identified in need of improvement throughout the commonwealth. However, Virginia may apply to renew its participation in the Department's SES Pilot Program to allow selected school districts with schools in year 1 of school improvement the option of providing SES to students instead of public school choice. Please see <http://www.ed.gov/nclb/choice/help/ses/07agreements.html>.